

ESTTA Tracking number: **ESTTA770528**

Filing date: **09/14/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Panthers Football, LLC
Granted to Date of previous extension	09/14/2016
Address	800 South Mint Street Charlotte, NC 28202-1502 UNITED STATES

Name	NFL Properties LLC
Granted to Date of previous extension	09/14/2016
Address	345 Park Avenue New York, NY 10154 UNITED STATES

Attorney information	Kristin H. Altoff Morgan, Lewis & Bockius LLP 1111 Pennsylvania Ave. NW; Attn: TMSU Washington, DC 20004 UNITED STATES trademarks@morganlewis.com, kristin.altoff@morganlewis.com, felicia.gordon@morganlewis.com Phone:202.739.5093
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Applicant Information

Application No	86853256	Publication date	05/17/2016
Opposition Filing Date	09/14/2016	Opposition Period Ends	09/14/2016
Applicant	CUNNINGHAM, DARRYL N. 8902 Clifton MeadowDr. Matthews, NC 28105 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: T-shirts


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
False suggestion of a connection with persons,	Trademark Act Section 2(a)


living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3518906	Application Date	03/01/2007
Registration Date	10/21/2008	Foreign Priority Date	NONE
Word Mark	PANTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1995/09/30 First Use In Commerce: 1995/09/30 Men's, women's and children's clothing,namely, fleece tops and bottoms, headwear, caps, knit hats, t-shirts, sweatshirts, shorts, tank tops, [sweaters,] pants, jackets, golf shirts, women's shirts, knit shirts, jerseys and [wristbands,] all relating to professional football		

U.S. Registration No.	3503585	Application Date	03/01/2007
Registration Date	09/23/2008	Foreign Priority Date	NONE
Word Mark	CAROLINA PANTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1995/09/30 First Use In Commerce: 1995/09/30 Football helmets, cell phone covers, [magnetically encoded credit cards,] decorative magnets, [prerecorded DVD's featuring the sport of football,] computer-game software and discs, mouse pads [and video game cartridges] Class 014. First use: First Use: 1995/09/30 First Use In Commerce: 1995/09/30 Jewelry, watches, clocks, pins, earrings, bracelets, charms, commemorative and		

	collectible coins made of precious metal, pendants and key chains made of precious metal
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U.S. Registration No.	4265288	Application Date	07/15/2011
Registration Date	12/25/2012	Foreign Priority Date	NONE
Word Mark	PANTHERS PRIVILEGES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2011/06/30 First Use In Commerce: 2011/06/30 Entertainment services in the field of professional and exhibition football games		

U.S. Registration No.	2120117	Application Date	04/28/1992
Registration Date	12/09/1997	Foreign Priority Date	NONE
Word Mark	CAROLINA PANTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1995/07/14 First Use In Commerce: 1995/07/14 posters, calendars, trading cards, sports books, sports magazines, notepads, stickers and bumper stickers</p> <p>Class 025. First use: First Use: 1995/07/14 First Use In Commerce: 1995/07/14 men's, women's and children's clothing,namely, fleece tops and bottoms, caps, T-shirts, sweatshirts, shorts, tank tops, sweaters, pants, jackets, turtle-necks,jumpsuits, jerseys, sweatsuits, swimwear, parkas, sleepwear, namely, robes and pajamas, gloves, scarves, aprons, boots and sneakers, and windwear, namely, jackets, pants and hats</p> <p>Class 028. First use: First Use: 1995/07/29 First Use In Commerce: 1995/07/29 bowling balls, [bowling bags,] footballs</p> <p>Class 041. First use: First Use: 1995/07/29 First Use In Commerce: 1995/07/29 entertainment services, namely, professional football games and exhibition games</p>		

Attachments	77119498#TMSN.png(bytes) 77119462#TMSN.png(bytes) 85372557#TMSN.png(bytes) PANTHERS Notice of Opposition.pdf(21081 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kristin H. Altoff/
Name	Kristin H. Altoff
Date	09/14/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PANTHERS FOOTBALL LLC and NFL
PROPERTIES LLC,

Opposers,

v.

DARRYL N. CUNNINGHAM,

Applicant.

In re Application Serial No. 86/853,256

Mark: I GOT THE PANTHERS FEVER
PANTHERS FEVER BABY

Published: May 17, 2016

Opposition No. _____

NOTICE OF OPPOSITION

Opposers Panthers Football, LLC and NFL Properties LLC (“Opposers”) believe they will be damaged by registration of the designation I GOT THE PANTHERS FEVER PANTHERS FEVER BABY shown in Application Serial No. 86/853,256 (“Applicant’s PANTHERS FEVER Designation”), filed by Darryl N. Cunningham, a resident of North Carolina (“Applicant”) for use in connection with “T- shirts” in Class 25. Opposers hereby oppose registration of Applicant’s PANTHERS FEVER Designation under the provisions of Sections 2(a), 2(d), 13, and 43(c) of the Trademark Act of July 5, 1946 (the “Lanham Act”), 15 U.S.C. §§ 1052(a), 1052(d), 1063 and 1125(c).

As grounds for opposition, Opposers allege that:

1. Opposer Panthers Football, LLC (the “Panthers” or “Panthers Club”) is a North Carolina limited liability company, with a principal place of business at 800 South Mint Street, Charlotte, North Carolina 28202. The Panthers Club owns and operates a professional football team and provides entertainment services to the public in the form of competitive professional football games. The Panthers Club is one of the thirty-two member clubs (the “Member Clubs”) of the National Football League (“NFL”).

2. Opposer NFL Properties LLC (“NFLP”) is a limited liability company organized and existing under the laws of Delaware with its principal place of business at 345 Park Avenue, New York, New York, 10154. NFLP represents the NFL and its thirty-two Member Clubs for the licensing and protection of their names, logos, symbols, and other identifying marks and is charged with protecting these marks and the rights of the NFL and the Member Clubs with respect thereto.

3. For many years, and long before the December, 17, 2015, filing date of Applicant’s intent-to-use application, Opposers have used the mark PANTHERS and marks containing PANTHERS (collectively, “Opposers’ PANTHERS Marks”) in connection with their business of organizing, conducting, and promoting the Panthers football franchise.

4. For many years, and long before the December, 17, 2015, filing date of Applicant’s intent-to-use application, Opposers and their authorized business partners, sponsors, and/or licensees have used Opposers’ PANTHERS Marks on or in connection with the sale of a wide variety of services and goods, including clothing, related to the business of organizing, conducting, and promoting the Panthers football franchise.

5. In addition to the common law rights in Opposers’ PANTHERS Marks, the Panthers Club owns registrations and applications for many of Opposers’ PANTHERS Marks used in connection with entertainment services in the form of football games and exhibitions and promotional and merchandising products and services, including, among others, the following registrations issued by the United States Patent and Trademark Office (“PTO”):

Registration Number	Mark	International Class	Date of First Use in Commerce
3,518,906	PANTHERS	25	9/30/1995
3,503,585	CAROLINA PANTHERS	9, 14	9/30/1995
4,265,288	PANTHERS PRIVILEGES	41	6/30/3011
2,120,117	CAROLINA PANTHERS	16, 25, 28, 41	7/14/1995 (Cl. 16, 25) 7/29/1995 (Cl. 28, 41)

6. The registrations referenced above are valid and subsisting, in full force and effect, and constitute *prima facie* and/or conclusive evidence of the Panthers Club's exclusive right to use the marks in commerce in connection with the goods and services specified in the registrations.

7. The following registrations referenced above are incontestable pursuant to the provisions of Section 15 of the Lanham Act, 15 U.S.C. § 1065, and constitute conclusive evidence of the Panthers Club's exclusive right to use the marks in commerce in connection with the goods and services specified in the registrations: 2,120,117; 3,503,585; and 3,518,906.

8. During the longstanding, widespread and continuous use of Opposers' PANTHERS Marks, Opposers and their authorized business partners, sponsors, and licensees have expended considerable time, effort, and money in advertising and publicizing the sale of goods and services bearing the Opposers' PANTHERS Marks.

9. Opposers and their licensees and sponsors have sold and offered for sale goods, including clothing, and services bearing Opposers' PANTHERS Marks in a trading area of broad geographical scope encompassing the United States, including its territories.

10. Opposers and their licensees and sponsors have sold and offered for sale goods, including clothing, and services bearing Opposers' PANTHERS Marks in numerous channels of trade.

11. Opposers' PANTHERS Marks are symbolic of the extensive goodwill and consumer recognition that Opposers have established through substantial expenditures of time, effort and other resources in the advertising and promotion of the goods and services Opposers sell and offer for sale under Opposers' PANTHERS Marks.

12. As a result of Opposers' regular, extensive and well-publicized use, Opposers' PANTHERS Marks are famous in the United States and are associated exclusively with Opposers and their high quality goods and services.

13. On December 17, 2015, Applicant filed an application for federal registration of Applicant's PANTHERS FEVER Designation shown in Application Serial No. 86/853,256, for use in connection with "T-shirts" in Class 25.

14. Upon information and belief, Applicant is using or intends to use Applicant's PANTHERS FEVER Designation in a manner that intentionally trades off of the goodwill of Opposers' PANTHERS Marks.

15. Applicant's PANTHERS FEVER Designation, Application Serial No. 86/853,256, was published for opposition in the *Official Gazette* on May 17, 2016.

16. The Trademark Trial and Appeal Board extended the opposition period for Applicant's PANTHERS FEVER Designation by granting Opposers' timely requests for extensions. The opposition period for Application Serial No. 86/853,256 currently expires on September 14, 2016. Therefore, Opposers timely file this opposition.

17. Opposers' rights in and to Opposers' PANTHERS Marks are superior to those of Applicant.

18. Opposers' PANTHERS Marks are famous and became famous before the Applicant's filing date or any use of Applicant's PANTHERS FEVER Designation.

19. Applicant's application for and any use of Applicant's PANTHERS FEVER Designation are without the consent, authorization, or license of Opposers.

20. Opposers believe they will be damaged by registration of Applicant's PANTHERS FEVER Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that Applicant's use and registration of the subject designation will falsely suggest a connection between Applicant and Opposers named herein to the damage of Opposers, in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

21. Opposers believe they will be damaged by registration of Applicant's PANTHERS FEVER Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that the subject designation so resembles Opposers' PANTHERS Marks used by Opposers in the United States as to be likely, when used on or in connection with the goods identified in the application for Applicant's PANTHERS FEVER Designation, to cause confusion, mistake or to deceive consumers, with consequent injury to Opposers and to the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

22. Opposers believe they will be damaged by registration of Applicant's PANTHERS FEVER Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, because the use and registration of Applicant's PANTHERS FEVER Designation is likely to dilute the distinctive quality of Opposers' famous PANTHERS Marks, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Opposers believe they will be damaged by registration of Applicant's PANTHERS FEVER Designation shown in Application Serial No. 86/853,256 and respectfully request that the registration sought by Applicant be refused.

Dated: September 14, 2016

Respectfully submitted,

By: /s/ Kristin H. Altoff

Kristin H. Altoff

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Attorneys for Opposers

PANTHERS FOOTBALL LLC and NFL

PROPERTIES LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition has been sent via first class mail, postage pre-paid on this 14th day of September 2016 to:

DARRYL N. CUNNINGHAM
8902 CLIFTON MEADOW DR.
MATTHEWS, NORTH CAROLINA 28105

/s/ Kristin H. Altoff